

Encroachment Appeal - 18 Felbrigg Avenue

Date: February 13, 2019

To: North York Community Council

From: Director, Permits and Enforcement, North York District

Wards: Ward 8 - Eglinton-Lawrence

SUMMARY

This staff report is about a matter for which Community Council has delegated authority from City Council to make a final decision provided it is in keeping with City policy or by-laws.

Transportation Services is objecting to the proposed maintenance of an existing 1.8 metre high wooden fence on Felbrigg Avenue unless it is reduced to a maximum 1.0 metre height. The fence on the public right of way does not meet the requirements of the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of. The owner will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

The Director, Permits and Enforcement, North York District, recommends that North York Community Council:

1. Refuse the request to maintain a 1.8 metre high wooden fence on the flankage of the subject premises within the public right of way at 18 Felbrigg Avenue.

OR

2. Approve the request to maintain a 1.8 metre high wooden fence on the flankage of the subject premises within the public right of way 18 Felbrigg Avenue subject to the following conditions:

a) The property owners enter into an encroachment agreement with the City of Toronto at the applicant's expense and assume all liability and damages related to the encroachment.

b) The property owners must retain valid property insurance for the duration of the encroachment in case there are any claims initiated due to the encroachment.

c) The property owners agree that the City and/or utility companies may remove the fence in order to install or maintain services within the affected public right of way with no obligation to replace the encroachment.

d) The property owners agree to reduce the fence height to a maximum 1.0 metre height to preclude traffic sightline impediment affecting the neighbour's driveway.

FINANCIAL IMPACT

There is no financial impact to the City as a result of this report.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on June 8, 2018, from the owners of 18 Felbrigg Avenue requesting permission to maintain an existing 1.8 metre high wooden fence on the flankage on the public right of way.

Encroachments are governed by the criteria set out in the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of. The relevant provision for the encroachment subject to this appeal are that a fence within 70 metres of an intersection of two or more roadways cannot exceed 1.0 metre height measured from the roadway grade. An appeal was subsequently received from the property owners, for which this report has been prepared.

Site plan and photos showing the encroachment have been submitted and are included as attachments in this report.

The fence exceeds the permitted height of 1.0 metre for encroachments within 70 metres of an intersection of two or more roadways and staff are of the opinion that it creates a traffic sight line impediment affecting the neighbour's driveway although it does not adversely impact on traffic or pedestrians at the intersection.

The Ward Councillor has been advised that the applicants are requesting permission to maintain the existing fence on the public right of way on Felbrigg Avenue.

CONTACT

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SIGNATURE

David J. Twaddle
Director

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Photo - Wood Fence
Attachment 3: Photo - Wood Fence